

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Crime Prevention -Minor Apps

No comments received

Environmental Health

Observations / Comments:

With regard to the latest e-mails from the applicant , I would have no objection in principle with regard to the proposed operation.

My only concerns currently are that the type of extractor proposed for usage is not clear, and further that any A3/A5 approval should not automatically be passed on to a potentially more odourous type operation, in the future.

If this application is to receive a favourable decision, I would ask that the following conditions be applied:

Condition 1:

Equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason:

To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties.

Condition 2:

The extraction equipment installed in pursuance to Condition 2 above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

Reason:

To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected.

Condition :

Any A3 / A5 approval should not automatically be passed on in the future, to a potentially more odourous take-away / restaurant type operation, without first confirming that the proposed extraction system would be suitable.

Reason: To protect the amenities of occupiers of adjoining properties.

Planning Policy

Policy Status

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan form the development plan for the borough. The Pre-submission Havant Borough Local Plan 2036 (HBLP 2036) was approved by the Council on 30 January 2019 and can be afforded limited weight. The following policies in the adopted Local Plan are of particular relevance:

- CS4 and AL3 - Town, District and Local Centres
- DM2 – Protection of Existing Community Facilities and Shops
- DM5 - Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses

In the Pre-submission Plan the following policies are of particular relevance:

- KP2 – Waterloooville Town Centre
- C8 - Food, Drink and Entertainment uses

Principle of Development

This application unit lies within Waterloooville Town Centre as defined by Policies CS4 and AL3 of the adopted local plan. These policies seek to promote main town centre uses, in particular A1 retail shops, in order to protect and enhance the vitality and viability of the town centre.

The application site lies within the primary frontage of the centre. The proposed change of use is from an A1 shop to an A3/A5 use. Therefore, criterion 3 of Policy AL3 is of particular relevance, as it seeks to retain at least 50% of the units in an unbroken run of primary frontage in A1 retail use. A site visit would be needed to establish whether this criterion is met.

Further, policy DM2 requires the active marketing of the unit as an A1 shop for at least 6 months before a change of use will be considered acceptable. I can see no evidence that such marketing has taken place.

The Pre-Submission Havant Borough Local Plan 2036 (HBLP2036) is a material consideration in the determination of the application, though with limited weight. Under the emerging Local Plan, the site remains within the Waterloooville District Centre as defined by policy KP2. That policy confirms Dukes Walk as one of the primary shopping areas in the centre, where A1 uses are supported and non-A1 uses will only be permitted subject to marketing.

Given that part of the proposed use is A5, policy C8 of the Pre-Submission Local Plan 2036 would also apply. This policy seeks to restrict A5 uses across the borough to below the current levels in order to support public health objectives. The A5 element would therefore not be supported under emerging policy.

Noise and Odours

Policies

- DM5 Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses (Core Strategy) and
- C8 Food, Drink and Entertainment Uses (HBLP 2036)

include provisions regarding the management of noise and odour from food and drink uses, which will have to be met. Design policies (see below) will also be relevant to the consideration of any such equipment.

Shopfront and Signage

With regard to any changes to the shopfront or signage, the following policies will be relevant considerations:

- CS16 High Quality Design (Core Strategy)
- DM21 Shopfronts, Signs, Security Shutters and Advertisements (Site Allocations)
- E1 High Quality Design (HBLP2036)

Conclusion

In policy terms, the key consideration is whether the proposal supports and enhances the vitality and viability of Waterloo Town Centre. The unit lies within the primary retail frontage in both the adopted and the emerging Local Plan, and a loss of A1 should be resisted here. In addition, there is an emerging restriction of A5 uses which may be given limited weight. Overall, there has to be a policy objection to the proposal.

It should be noted that the comments above are made on the basis of the description of development in the application, i.e. a change of use from A1 to mixed A3/A5. However, judging by the submitted information, I would suggest that the description of development may not be entirely accurate. There appears to be the intention to run a combined A1 shop and A3 café/restaurant, with a limited take-away element, more akin to a sandwich shop than a hot food take-away. If this is the case, this is likely to address some of the policy objections highlighted above.

Officer Comment: The applicant has confirmed that the description should include A1 use as the unit will be continuing to sell produce from the delicatessen.

Given the limited weight to be attached to the HBLP 2036 at this stage in its development and the limited nature of the takeaway element it is not considered that a refusal based on policy C8 would be justified.

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 4

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. In this case the main issue is considered to be the impact of the proposed development on Waterlooville Town Centre and the Primary frontage in which the unit is located. This is considered in detail below.

This application unit lies within Waterlooville Town Centre as defined by Policies CS4 and AL3 of the adopted local plan. These policies seek to promote main town centre uses, in particular A1 retail shops, in order to protect and enhance the vitality and viability of the town centre.

As the site lies within the primary frontage policy AL3 of the Local Plan Allocations 2014 is particularly relevant. This policy has a number of criteria of which the following are relevant:

Planning permission will be granted for development proposals that:

1. Provide main town centre uses in the town, district and local centres as defined on the Policies Map, and so contribute to their vitality and viability.

2. Promote and enhance the primary shopping areas of the town and district centres.

The proposed development is for a mixed A1 (retail), A3 (restaurant/cafe) and A5 (hot food takeaway) use.

Although Dukes Walk is situated off the main high street, it is frequently used by pedestrians through out the day and evening. It is also next to Waitrose car park and therefore benefits from natural surveillance from the flood lighting of the car park and its use by shoppers. The proposed use would be open from 8am to 4.30/5pm and would be complementary to the surrounding commercial uses including , retail, gym and library uses. It is considered that the use would add to the vitality of the town centre and enhance the primary shopping area.

3. Retain at least 50% of the units in an unbroken run of primary frontage as defined on the Policies Map in retail (A1) use.

In this case there is a long primary frontage to consider and based on the text in relation to policy AL3 the assessment has been made in relation to the units in the run facing the car park, those on the same side fronting The Precinct and units fronting London Road in a continuous run. Having carried out this assessment it was found that there are a total of 35 units of which 22 are in retail use with the remaining 13 units in non-retail uses (with 1 unit vacant). The retail units therefore represents approximately 63% of the units being in retail use. This requirement of the policy is therefore satisfied even if the retained A1 element of the proposal is not taken into account.

5. Generate pedestrian activity within the primary shopping area by being open during the day to visiting members of the public.

The proposal would clearly help to support pedestrian activity within the primary shopping area during the day.

6. Provide a shopfront within the primary shopping area with a well designed and appropriate display window.

The current application does not include the physical alterations to the shop front and these are being considered separately under planning application APP/19/00382. The use cannot operate until a new pedestrian access is provided into the unit.

Policy DM2 relates to the protection of existing community facilities and shops, this requires the marketing of premises changing from community services and facilities including local shops to other uses. In this case however, the proposal both retains a retail element and meets the requirements for the primary shopping frontage as detailed above. In these circumstances it is not considered that a marketing requirement will be required.

In terms of the retail element, the applicant has stated the following:

The shop will continue to be used as A1 retail usage along with the added benefit of A3 (and A5 to an extent) so people can also enjoy the food sold in store. As far as A1 usage is concerned we will be selling cold meats, cheeses and fresh artisan goods to use and enjoy at home like any other food store. We will be selling a range of jams, chutneys, breadsticks, biscuits, cakes, oils, tapenades, bread, cakes, meats and cheeses.

Overall it is considered that the proposed mixed use unit would add to the viability and vitality of Dukes Walk and the wider primary shopping frontage in Waterlooville Town Centre.

(ii) Impact upon the character and appearance of the area

The current proposal is for a change of use only and does not include external alterations including an alteration to the shop front which is subject to a separate current planning application reference APP/19/00382. The use cannot take place unless and until the external alterations are made.

The use itself is considered appropriate to the existing commercial setting of Dukes Walk and would be complementary to the town centre.

(iii) Impact upon residential amenity

There are no residential uses at first floor level, but there are residential uses set further off. The proposals do not include details of the proposed extract in relation to cooking or any chillers or other equipment. The proposals would include some sale of hot food both to eat in and to take away. The Councils Environmental Health Officer has considered the proposals and has raised no objection in principle to the proposed Change of Use subject to appropriate conditions. These have been considered and amended as required to meet the tests for planning conditions.

It is considered that potential impacts on residential amenity can be appropriately addressed and any impacts mitigated appropriately.

8 Conclusion

In conclusion, the proposed use is considered to be acceptable in principle and impacts on the character and appearance/residential amenity can be addressed by the appropriate use of planning conditions. Planning permission can therefore be recommended.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00154 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Design Plan and Statement

Location Plan Unique plan reference p2buk/323325/439527

Block Plan Unique plan reference p36buk/323325/439539

Proposed Floor Plan (in relation to internal changes only, external changes subject to separate application).

Email from Jo Winter dated 13th May 2019

Reason: To ensure provision of a satisfactory development.

- 3 The use hereby permitted shall not commence unless and until details of extracts / flues and equipment to be installed including measures to suppress and disperse fumes and/or smell produced by cooking and food preparation have been submitted to and approved in writing by the Local Planning Authority. The approved equipment shall be installed in full working order prior to the use commencing and be thereafter maintained in accordance with the approved details.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties having due regard to Havant Borough Local Plan (Core Strategy) 2011 policies CS16 and DM10 and the National Planning Policy Framework.

- 4 The extraction equipment installed in pursuance to Condition 3 above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected having due regard to policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The use hereby permitted is for a mixed A1, A3 and A5 use as a delicatessen/eatery only in accordance with the details submitted in the Design Plan and Statement and email from Jo Winter dated 13th May 2019. The use of the property for a general A3 / A5 use would therefore require a separate planning permission.

Reason: To accord with the terms of this application and to prevent a more general A3 / A5 use which may have an unacceptable impact in terms of fumes / odour and would result in the loss of the A1 retail use at the site within a primary frontage having due regard to policies CS4, CS16, DM2 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.